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OFFICE OF PETITIONS

In re Application of
A. David Johnson et al
Application No. 09/902,856
Filed: July 10, 2001
Attorney Docket No. A-70170

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, to revive the above-identified application.


The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 3, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 4, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$465.00 extension of time submitted on April 28, 2003 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1742.


Wan Laymon
Petitions Examiner
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for Patent Examination Policy